

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.4582/2021

Chinmay Rajendra Kadam,
 Aged 19 years, Occ.-Student, R/o.-Lahariya Nagar,
 Kaulkhed, Akola, Tq. District Akola. ...Petitioner.

Versus

1. The Scheduled Tribes Certificate Scrutiny Committee,
 through its Member Secretary, Chaparasipura, Amravati.
2. The State of Maharashtra, through its Secretary,
 Department of Medical Education, Mantralaya,
 Mumbai 400 032. ...Respondents

 Mr. R.S. Parsodkar, Advocate for petitioner.
 Mrs N.P. Mehta, Assistant Government Pleader for respondent nos. 1 and 2.

**CORAM : A.S. CHANDURKAR &
 PUSHPA V. GANEDIWALA, JJ.**
DATE : 02-02-2022.

Oral Judgment (Per- A.S. Chandurkar, J.)

Rule. Rule made returnable forthwith and heard learned
 Counsel for the parties.

2. The challenge raised in this petition is to the order dated 09-11-2020 passed by the Scheduled Tribe Certificate Scrutiny Committee, Amravati, thereby invalidating the claim of the petitioner of belonging to 'Thakur' (Scheduled Tribe).

3. The petitioner in support of his tribe claim relied upon

various old documents in the form of birth extracts of his forefathers especially the extract dated 01-10-1921 of his great grandfather Shyamrao and also his aunt dated 27-09-1926. The petitioner also relied upon the validity certificate that was issued to uncle on 24-05-2000. The Vigilance Cell during its enquiry found certain old documents indicating birth of a son to Uttam Madho dated 15-08-1916 and 24-03-1920. The entries of "Bhat" were found therein. The Vigilance Cell accordingly on 02-11-2020 submitted its report to the Scrutiny Committee and by referring to the aforesaid contrary entries doubted the petitioner's tribe claim. The report was supplied to the petitioner who thereafter on 06-11-2020 filed his reply to the same. The petitioner denied his relationship with the persons against whose names the entry "Bhat" was shown. Thereafter, the Scrutiny Committee on 09-11-2020 invalidated the claim as made by the petitioner.

4. After hearing the learned Counsel for the parties and after perusing the relevant documents, we find that the Scrutiny Committee has principally proceeded to invalidate the petitioner's tribe claim in view of the adverse entries dated 15-08-1916 and 24-03-1920. A perusal of the reply submitted by the petitioner to the report of the Vigilance Cell indicates that the petitioner has denied his relationship with those persons. The Scrutiny Committee in paragraph 4 of its order has referred to the filing of such reply by the petitioner on 06-11-2020. However, the impugned order does not indicate

consideration of the stand taken by the petitioner in the said reply. The petitioner having denied his relationship with the said persons against whose names the entry "Bhat" was made, it was necessary for the Scrutiny Committee to have considered that stand taken by the petitioner and it ought to have recorded a finding in that regard. However, the impugned order does not indicate such consideration by the Scrutiny Committee.

5. The learned Counsel for the petitioner urged that this Court may consider the documents dated 01-10-1921 and 27-09-1926 and uphold the claim of the petitioner. This submission cannot be accepted unless a finding is recorded by the Scrutiny Committee as regards relationship of the petitioner or absence thereof with the persons against whose names the entry "Bhat" is found. For this reason, we are inclined to remit the matter to the Scrutiny Committee for considering the specific stand taken by the petitioner in his reply dated 06-11-2020. Since the petitioner is a student expeditious reconsideration of the matter is called for. Hence, the following order is passed :-

ORDER

- (a) The order passed by the Scrutiny Committee dated 09-11-2020 is set aside.
- (b) The Scrutiny Committee shall reconsider the petitioner's tribe claim in accordance with the law and especially after taking into account his reply dated 06-11-2020 to the

report of the Vigilance Cell.

- (c) The petitioner is at liberty to file additional reply to the report of the Vigilance Cell, if so desired.
- (d) To facilitate the adjudication of the petitioner's tribe claim the petitioner shall appear before the Scrutiny Committee on 09-02-2022.
- (e) Since the petitioner is a student his claim be decided within a period of six weeks from the first date of appearance.

6. All points raised in the Writ Petition are kept open.

7. Rule is made absolute in aforesaid terms. No costs.

(Pushpa V. Ganediwala, J.)

(A.S. Chandurkar, J.)